

Introduced by

Representative Meier

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to create and enact a new section to chapter 23-12 and a new section to
2 chapter 34-03 of the North Dakota Century Code, relating to limitations on COVID-19
3 vaccinations and infection information and limitations on employers requiring COVID-19
4 vaccinations; and to declare an emergency.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 23-12 of the North Dakota Century Code is created
7 and enacted as follows:

8 **COVID-19 vaccine and infection information.**

9 1. Neither a state government entity nor any of its political subdivisions, agents, or
10 assigns may:

11 a. Require documentation, whether physical or electronic, for the purpose of
12 certifying or otherwise communicating the following before providing access to
13 property, funds, or services, or before allowing an individual to exercise a
14 constitutional right:

15 (1) An individual's COVID-19 vaccination status;

16 (2) The presence of COVID-19 pathogens, antigens, or antibodies; or

17 (3) An individual's COVID-19 post-transmission recovery status;

18 b. Otherwise publish or share an individual's COVID-19 vaccination record or similar
19 health information, except as specifically authorized by the individual or otherwise
20 authorized by statute; or

21 c. Require a private business to obtain documentation, whether physical or
22 electronic, for purposes of certifying or otherwise communicating the following
23 before employment or providing access to property, funds, or services based on:

24 (1) An individual's COVID-19 vaccination status;

1 (2) The presence of COVID-19 pathogens, antigens, or antibodies; or

2 (3) An individual's COVID-19 post-transmission recovery status.

3 2. A private business located in this state may not require a patron, customer, student, or
4 party to a contract with the business to provide any documentation certifying
5 COVID-19 vaccination, the presence of COVID-19 pathogens, antigens, or antibodies,
6 or COVID-19 post-transmission recovery to gain access to, entry upon, or services
7 from the business or to contract with the business. This subsection includes a private
8 school and institution of higher education.

9 3. This section may not be constructed to interfere with an individual's rights to access
10 that individual's own personal health information or with a person's right to access
11 personal health information of others which the person otherwise has a right to
12 access.

13 4. Notwithstanding chapter 37-17.1, this section applies to the authority of the governor
14 during a COVID-19-related disaster or emergency. Notwithstanding section 23-01-05,
15 this section applies to the powers of the state health officer.

16 5. This section does not apply to a nursing home, long-term care facility, basic care
17 facility, or assisted living facility to the extent compliance would result in failure to
18 comply with regulations or guidance issued by the centers for Medicare and Medicaid
19 services which are in conflict with this section. This section does not apply to a person
20 to the extent application would result in the person incurring direct financial losses due
21 to the noncompliance with a federal vaccine mandate.

22 6. As used in this section, "COVID-19" means severe acute respiratory syndrome
23 coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of
24 SARS-CoV-2.

25 **SECTION 2.** A new section to chapter 34-03 of the North Dakota Century Code is created
26 and enacted as follows:

27 **COVID-19 vaccination as condition of employment - Civil liability.**

28 1. This section applies to an employer located in this state or doing business in this state
29 and to an employee or prospective employee working in this state. As used in this
30 section, "COVID-19" means severe acute respiratory syndrome coronavirus 2
31 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.

- 1 2. Except as otherwise provided under this section, an employer may not require an
2 employee or prospective employee to receive a COVID-19 vaccination as a condition
3 of employment or terminate employment based on COVID-19 vaccination status.
- 4 3. A health care provider, including a long-term care provider, may require an employee
5 or prospective employee to receive a COVID-19 vaccination as a condition of
6 employment and may terminate employment for failure to be so vaccinated.
- 7 a. If an employer requires a COVID-19 vaccination under this subsection, the
8 employer shall recognize as proof of vaccination, proof of COVID-19 antibodies.
- 9 b. If an employer requires a COVID-19 vaccination under this subsection, the
10 employer shall exempt the employee from the requirement upon receipt from the
11 employee:
- 12 (1) A certificate from a licensed physician stating the physical condition of the
13 employee is such that immunization would endanger the life or health of the
14 employee; or
- 15 (2) A certificate signed by the employee stating the employee's religious,
16 philosophical, or moral beliefs are opposed to such immunization.
- 17 4. Although this section does not prohibit an employer from recommending a COVID-19
18 vaccination, the employer may not use force, threats, or intimidation to coerce an
19 employee or prospective employee to receive the vaccination. An employer may not
20 discriminate against an employee or prospective employee for declining to receive a
21 COVID-19 vaccination. An employer may not direct an employee to direct another
22 employee or prospective employee to receive a COVID-19 vaccination in violation of
23 this section.
- 24 5. It is not a violation of this section if an employer requires an employee or prospective
25 employee to be vaccinated against COVID-19 in compliance with a federal vaccine
26 mandate for which failure to comply would result in direct financial losses to the
27 employer. It is not a violation of this section if an employer that is a nursing home,
28 long-term care facility, basic care facility, or assisted living facility requires an
29 employee or prospective employee to be vaccinated against COVID-19 in compliance
30 with regulations or guidance issued by the centers for Medicare and Medicaid
31 services.

- 1 6. An employee or prospective employee is entitled to recover damages in a civil action
- 2 against the employer in an amount of not less than five thousand dollars plus
- 3 attorney's fees.

4 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.